

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

RICHARD JORDAN and RICKY CHASE

PLAINTIFFS

**THOMAS EDWIN LODEN, JR.,
ROGER ERIC THORSON, and
ROBERT SIMON, JR.**

INTERVENORS

VS.

No. 3:15-cv-00295-HTW-LRA

**BURL CAIN, Commissioner,
Mississippi Department of Corrections, in
his Official Capacity; MARC MCCLURE,
Superintendent, Mississippi State Penitentiary,
in his Official Capacity; THE MISSISSIPPI
STATE EXECUTIONER, in his Official
Capacity; an UNKNOWN EXECUTIONERS,
in their Official Capacities**

DEFENDANTS

AFFIDAVIT OF BURL CAIN

STATE OF MISSISSIPPI

COUNTY OF HINDS

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the County and State aforesaid, Burl Cain, who having been duly sworn stated on his oath as follows:

1. My name is Nathan Burl Cain. I am employed with the Mississippi Department of Corrections (MDOC) and hold the position of Commissioner.

2. I am over the age of twenty-one years of age and competent to testify with regard to the matters stated herein.

3. On November 21, 2022, MDOC delivered all expired drugs to the Mississippi Bureau of Narcotics (MBN) for destruction. The expired drugs delivered to MBN were as follows:

twenty-five bottles of potassium chloride (single dose), twenty bottles of potassium chloride for injection, and one bottle of vecuronium bromide. Therefore, MDOC is no longer in possession of any expired drugs. Attached as Exhibit 1 is a true and correct copy of MDOC's request to MBN to destroy the expired drugs, MBN's acknowledgement of receipt of MDOC's request, and MDOC's Chain of Custody form reflecting that the expired drugs were delivered to MBN.

4. MDOC recently purchased a new supply of potassium chloride to replace the expired potassium chloride that was delivered to MBN for destruction. MDOC currently possesses a sufficient quantity of midazolam, vecuronium bromide, and potassium chloride to carry out the execution of Inmate Thomas Loden, Jr. on December 14, 2022.

5. MDOC's inventory includes nine vials of Midazolam expiring in 2023, and ten vials expiring in 2024. Our inventory also includes twenty vials of vecuronium bromide expiring in 2023 and fifty vials of potassium chloride expiring in 2024. Attached as Exhibits 2 and 3 are true and correct copies of MDOC's October and November 2022 Supply Inventory Forms.

6. All of the execution drugs in MDOC's possession were obtained from FDA-approved manufacturers. All of the execution drugs have an FDA-approved package insert or drug label.

7. I sent a letter, dated November 23, 2022, to Plaintiff Loden advising him of the method that would be used to carry out his execution. Attached as Exhibit 4 is a true and correct copy of the letter that was sent to Plaintiff Loden.

I declare under penalty of perjury that the above and foregoing facts and correct as stated to the best of my knowledge.

FURTHER AFFIANT SAYETH NOT.


BURL CAIN
Commissioner
Mississippi Department of Corrections

Sworn to and subscribed before me, this the 30th day of November, 2022.

(Seal)


NOTARY PUBLIC

My Commission Expires: May 7, 2023

